

Driver License Issues: Real ID Act of 2005 and The Western Hemisphere Travel Initiative

Status and Implications for Utah
Transportation Interim Committee
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Michael E. Christensen, Director • M. Gay Taylor, General Counsel
Utah State Capitol Complex, House Building Suite W210
PO Box 145210, Salt Lake City, Utah 84114-5210
801-538-1032 • fax 801-538-1712 • <http://ole.utah.gov>



Driver License Issues

- REAL ID Provisions
- Western Hemisphere Travel Initiative Provisions
- Concerns
- Policy Options
- Questions?



REAL ID Provisions

- Principle provisions
 - Mandate and Official Use Prohibition
 - Minimum Card Display Requirements
 - Verification of Identity
 - Security
 - Renewals and Expirations
 - State Self-certification and Reporting
 - Miscellaneous Provisions



REAL ID Provisions

☐ Not a Mandate:

- “...a Federal agency may not accept, for any official purpose...” (sec. 205 (a)(1))
 - ☐ “Official purpose”
 - Accessing federal facilities
 - Boarding federally regulated commercial aircraft
 - Entering nuclear power plants
 - Any other purposes that the Secretary shall determine
- Federal Regulations limited the definition of “official purpose” to the purposes stated



REAL ID Provisions

☐ Minimum Card Display Requirement

Real ID requirements	Current Utah requirements
Full legal name	Name
Date of birth	Date of birth
Gender	Brief description of the person
Driver license or identification card number	Distinguishing number assigned by the division
Digital photograph	Photograph
Place of principle residence	Utah residence address
Signature	Signature
Physical security features	Impervious material, resistant to wear, damage, and alteration
Common machine-Readable Technology	Included but may need to add additional fields
Issue date	Included
Expiration date	Included
State or Territory of Issuance	Included
DHS Approved Security Marking	Not currently included



REAL ID Provisions

□ Verification of Identity

- A photo identity document, except that a non-photo identity document is acceptable if it includes both the person's **full legal name and date of birth**
- Documentation showing the person's **date of birth**
- Proof of the person's **social security number** or that the person is not eligible for a social security number
- Documentation showing the **person's name and address of principal residence**
- **Lawful status**

REAL ID Provisions

- Verification of Identity: Name and Date of Birth (must present at least 1 of the following documents)

Real ID required documents	Current Utah requirements
Current license certificate if Real ID compliant	Current license certificate
Birth certificate if verified	Birth certificate
Other Documents: Valid unexpired U.S. passport Consular report of birth abroad Valid, unexpired permanent resident card Unexpired employment authorization document Unexpired foreign passport with a valid U.S. visa affixed accompanied by Form I-94 U.S. Certificated of Citizenship U.S. Certificate of Naturalization Other documents DHS designates later	Other Documents: Selective Service registration Church records Family Bible notations School records
Exceptions process: State may adopt exceptions process for individuals who are not able to provide necessary documents	Exceptions process: Other documents approved by the division



REAL ID Provisions

- Division must verify documents provided
 - Regulations defined “verify” as “authenticating that a source document is genuine and has not been altered and then validating identity data contained on the document”
 - States will need access to 6 national databases to verify the validity of identification documents
 - Social Security On-Line Verification (SSOLV)
 - Department of State
 - Electronic Verification and Vital Events (EVVE)
 - Systematic Alien Verification for Entitlements (SAVE)
 - Student and Exchange Visitor Information System (SEVIS)
 - All-State DL/ID Records System
 - States may have to pay transactional costs to access databases



REAL ID Provisions

- Verification of Identity: Social Security Number or Proof of Ineligibility
 - Currently required by state statute
 - Social Security Number
 - IRS temporary identification number (must obtain driving privilege card)
 - Proof of ineligibility for Social Security Number with proof of legal status in U.S.
 - Check against database



REAL ID Provisions

- Verification of Identity: Name and Address of Principal Residence.
 - Currently by Division rule
 - Two documents
 - Current
 - REAL ID requirements
 - Two documents of Utah's choice
 - Current



REAL ID Provisions

☐ Security

Issue	REAL ID
Physical Security of location where documents produced and stored	Comprehensive security plan
Employee Security	Background checks Disqualifying offenses
Document Security Features	Included in comprehensive security plan Prevent tampering, counterfeiting, or duplication
Security of Information Stored on DMV database	Included in comprehensive security plan
Security of Personal Data	Included in comprehensive security plan

Source: 6 C.F.R. Secs. 37.41, 37.43, and 37.45

REAL ID Provisions

□ Renewals and Expirations

Issue	REAL ID Requirements	Current Utah Requirements
Regular Card: Renewal	In person every other cycle, or every cycle if personal information changes	In person every other cycle
Regular Card: Expiration	Within 8 years	5 years
Temporary Card: Renewal	Issued to immigrants with various status categories.	None
Temporary Card : Expiration	When lawful status changes or yearly	None
Driving Privilege Card: Renewal	None	When lawful status changes or every cycle
Driving Privilege Card: Expiration	None	Yearly (with ITIN), up to five years (with proof of legal presence)

Source: 6 C.F.R. Secs. 37.5, 37.21, 37.23, and 37.25, Utah Code Ann. §53-3-205



REAL ID Provisions

☐ State Self-certifications and Reporting

- States certify compliance to DHS - Subject to DHS review at any time
- States re-certify every 3 years
 - ☐ Highest level Executive Official in the state overseeing DMV certifies
 - ☐ Letter from Attorney General certifying that the state has legal authority to impose requirements
 - ☐ Description of states exception and waiver processes
 - ☐ State's security plan

☐ Miscellaneous Provisions

- Record Retention: 7 years (hard copy); 10 years (digital)
- Non-compliant cards:
 - ☐ Clearly state on face
 - ☐ Unique design or color indicator
 - ☐ DHS reserves the right to approve non-compliant cards designations



Timeline: REAL ID Implementation

- All jurisdictions have been granted an extension - All driver Licenses and ID Cards will be accepted for official purposes after May 11, 2008
- Extension is effective until December 31, 2009
 - States may file for an additional extension by October 11, 2009
 - States must be materially compliant by January 1, 2010 to receive an additional extension to May 10, 2011
 - Material compliance
 - States must be fully compliant by May 10, 2011 to be accepted for official purposes
- Re-enrollment deadlines
 - December 1, 2014 for applicants born after December 1, 1964
 - December 1, 2017 for applicants born before October 1, 1964



REAL ID: Other States' Action

Action	States with Pending Legislation	States with Enacted Legislation
Comply	14 (5)	5 (0)
Refuse to Comply	18 (10)	13 (1)
Urge Congress to Act	22 (4)	16 (1)

() number of states with legislation that is pending or was enacted in 2008



Western Hemisphere Travel Initiative

- Intelligence Reform and Terrorism Prevention Act of 2004
 - Mandates implementation of plan to require U.S. Citizens and foreign nationals to present a passport or other appropriate identity and citizenship documentation when entering U.S. from within the Western Hemisphere
 - Narrows the types of documents that will be accepted to prove identity and citizenship
- January 31, 2008
 - U.S. Customs and Border Protection no longer accepting oral declarations of citizenship and identity alone at land and sea ports of entry
 - Must present a government issued photo ID (i.e. driver license) and proof of citizenship (birth certificate or naturalization certificate)



Western Hemisphere Travel Initiative

- Implementation Date - June 1, 2009
- Only a passport or other WHTI compliant document will be accepted for entry into the United States
- WHTI Compliant Documents
 - U.S. Citizens:
 - A passport issued by U.S. Government
 - A passport card
 - A valid trusted traveler program card (FAST, NEXUS, or SENTRI)
 - An enhanced driver's license (EDL)
 - Military ID with official travel orders
 - U.S. Merchant Mariner Document



Western Hemisphere Travel Initiative

□ Enhanced Driver License (EDL) Requirements

- Each state must enter into an agreement with the Department of Homeland Security to develop an acceptable EDL
- Must denote identity and citizenship (may only be issued to U.S. Citizens in the United States)
- Must have compatible technology, security criteria, and respond to Customs and Border Protection's operational concerns
- Must include technologies that facilitate inspection at ports-of-entry
- Must be issued in a secure process and include technology that facilitates travel to satisfy WHTI requirements
- DHS coordinating to ensure that enhanced driver licenses will adopt standards that REAL ID requires



Western Hemisphere Travel Initiative

- States currently implementing Enhanced Driver Licenses
 - Department of Homeland Security has designated Washington State's Enhanced Driver License as WHTI compliant
 - Signed Memorandum of Agreements with the Department of Homeland Security to develop, issue, test, and evaluate enhanced driver licenses and identification cards
 - Vermont
 - New York
 - Arizona



Driver License Concerns

□ Privacy Concerns

- Connectivity of State databases - scanned documents
- Personal information stored by State databases - increased information and documentation
- Protection of information stored on machine-readable technology

□ Federalism Concerns

- Competing interests
- National identification
- State repository for Federal information
- Responsibility for costs



Key Policy Questions

- How Should Utah Proceed?
 - Comply with Real ID Act
 - Materially comply with Real ID Act and apply for additional extension by October 11, 2009
 - Refuse to Comply



Key Policy Questions

□ What Identity Documents Should Utah Provide?

- REAL ID Only
- Non-REAL ID Only
- Enhanced Driver License
- Driving Privilege Card
- Combination

□ How Should Utah Cover Compliance Costs?

- All Users
- REAL ID Users
- General Fund
- Federal Funding



Questions?
